

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

NELSON SUMPTER,

Petitioner,

v.

Case No. 11-cv-13385

MARY BERGHUIS,

Respondent.

ORDER DENYING PETITIONER'S "MOTION FOR BOND"

This matter is presently before the court on Petitioner's "Motion for Bond," in which Petitioner seeks release from state custody pending disposition of his habeas corpus petition. For the reasons set forth below, the court will deny the motion.

To receive bond pending a decision on the merits of a habeas corpus petition, a petitioner must show a substantial claim of law based on the facts surrounding the petition and the existence of "some circumstance making the [motion for bond] exceptional and deserving of special treatment in the interests of justice." *Aronson v. May*, 85 S.Ct. 3, 5 (1964); *Dotson v. Clark*, 900 F.2d 77, 79 (6th Cir.1990). "There will be few occasions where a prisoner will meet this standard." *Dotson*, 900 F.2d at 79. "Since a habeas petitioner is appealing a presumptively valid state conviction, both principles of comity and common sense dictate that it will indeed be the very unusual case where a habeas petitioner is admitted to bail prior to a decision on the merits in the habeas case." *Lee v. Jabe*, 989 F.2d 869, 871 (6th Cir. 1993).

Petitioner argues that he is deserving of release on bond because he has shown a substantial claim of law that he is in custody in violation of his Fourth Amendment rights. However, because the court has not yet received Respondent's answer or the Rule 5 materials—not due to be filed with the court until March 12, 2012—it would be premature for the court to order the immediate release of Petitioner without having had the opportunity to fully review the record. Moreover, even if Petitioner could demonstrate a substantial claim of law, he has failed to establish that his is the unusual case in which bail is warranted due to exceptional circumstances deserving of special treatment in the interests of justice. Petitioner's release on bond pending the disposition of his habeas petition is not warranted.

Accordingly, IT IS ORDERED that Petitioner's "Motion for Bond" [Dkt. # 5] is DENIED.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: January 31, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, January 31, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522